

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)	CRIMINAL NO.04-CR10166(RGS)
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)	
V.)	Defendant Donald McGilvray's
)	Motion for Stay of Incarceration
)	
)	
DONALD MCGILVRAY)	

Now comes the Defendant, Donald McGilvray, and moves this Court to stay his incarceration from July 17, 2007 to October 1, 2007 in order to allow him to have hip replacement surgery performed. In the alternative the Defendant moves that his incarceration be stayed for one month to August 17, 2007 in order to allow him to recover from an unsuccessful suicide attempt.

In support thereof he says;

1. On June 13, 2007 this Court sentenced the Defendant to a term of 41 months and ordered him to appear at the location ordered by the Bureau of Prisons on July 17, 2007.
2. Mr. McGilvray had been treated for a chronic degenerate hip problem for several years by Dr. Douglas Ayres.
3. Mr. McGilvray saw Dr. Ayres for a routine checkup after he was sentenced by the Court. Dr. Ayres at that point strongly recommended that hip replacement surgery be performed prior to Mr. McGilvray's incarceration. A copy of Dr. Ayres's letter is attached as Exhibit 1.
4. Mr. McGilvary has been informed that the Bureau of Prisons is unlikely to allow him to continue taking the pain medication that he now uses to deal with his hip pain because of security concerns in the prison.
5. It would be preferable to allow Dr. Ayres to perform surgery rather than perform surgery in prison since Dr. Ayres is familiar with Mr. McGilvray's history and it would be advantageous to save the government the cost and inconvenience of performing the surgery in prison.

6. Doctor Ayres's office advises that the typical recovery would be approximately two months.
7. On July 5, 2007 Mr. McGilvray unsuccessfully attempted to commit suicide by an intentional overdose of drugs. He left a suicide note and checked into a hotel room where he ingested the drugs. His brother was able to track him down through credit card receipts.
8. He was rescued by the EMTs and taken by ambulance to the Beth Israel Emergency Room where he is currently being treated.
9. On July 6, 2007 the treating physician at the Emergency Room advised Mr. McGilvray's brother that he would be transferred to a locked and secure facility for observation.

Respectfully submitted,

/s/ Michael W. Reilly

Michael W. Reilly, Esq.
2 Center Plaza
Boston, MA 02108
(617) 723-1720
BBO#: 415900